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ABSTRACT

Summarized is federal legislation affecting the mentally retarded or other handicapped persons and enacted or considered by the 92nd Congress (1971-1972). Reviewed in section I of the paper are some of the overriding issues of the Congress such as the conservative coalition and the war in Southeast Asia, in order to give the political and social context of the legislation. Analyzed in detail in Section II are enacted bills having implications for the handicapped such as the Social Security Amendments of 1972. Examined in Section III are bills enacted by congress but vetoed by President Nixon such as the Rehabilitation Amendments of 1972 and the Economic Opportunity Amendments of 1971. Considered more briefly are bills considered but not enacted by the 92nd Congress. Bills are described and status as of the close of the session given. Relevant bills include the Extension of the Developmental Disabilities Act and Financing of Educational Services for Handicapped Children. The final section looks at general and specialized domestic legislation likely to be considered by the 93rd Congress. General issues include tax reform and national health insurance. Topics relating to the handicapped expected to be considered are the financing of educational programs for handicapped children, improvements in residential services for the mentally retarded and comprehensive child development legislation. (DB)

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92nd Congress:

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National Association of Coordinators
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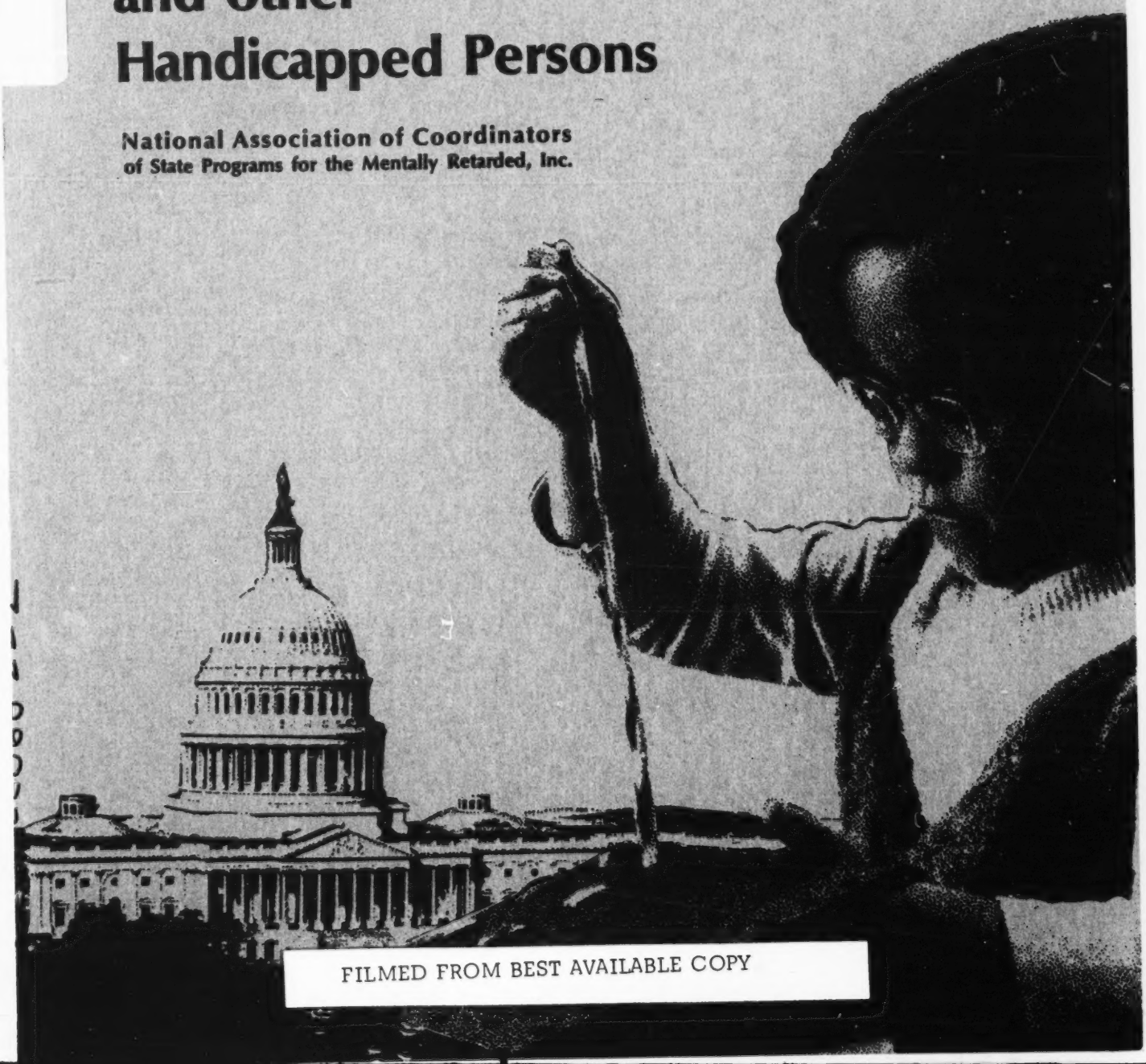

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92nd CONGRESS:
Federal Legislation Affecting the Mentally Retarded and Other Handicapped Persons

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Executive Director

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PREFACE

Over the past two decades the number and complexity of federal human service programs has grown at a mind-boggling pace. Outgoing HEW Secretary Elliot Richardson recently made this point when he noted that HEW now administers some 280 separate grant programs and a $71.7 billion budget.

Certainly, this general growth pattern has been duplicated - in spaces - in the area of services to the handicapped. Those of us who attempt to follow federal legislation affecting the handicapped face an ever increasing chore in sorting out and digesting the volumes of bills which impact on our area of interest. If we who follow legislation on a daily basis have this problem, how much more difficult must it be for a state or local program operator, parent or interested citizen to make any sense of the morass of federal statutes which affect the lives of handicapped children and adults.

With this thought in mind, the Association's staff has prepared the following summary of legislation enacted and considered by the 92nd Congress. It constitutes an attempt to review and analyze the actions taken by Congress over the past two years and their likely effects on mentally retarded and other handicapped citizens. We have attempted to present this information in a fashion which will be easily understood by those who do not grasp all the intricacies of the legislative process or have a knowledge of the various federal acts which have a bearing on the handicapped.

Section I of the paper attempts to briefly outline some of the overriding issues faced by the 92nd Congress in order to give the reader a sense of the political and social context within which legislation for the handicapped was considered. Section II analyzes, in some detail, the implications for the handicapped of bills enacted by the past session of Congress. Measures which were enacted by Congress but vetoed by the President are discussed in Section III. Section IV briefly covers other bills introduced but not enacted in the 92nd Congress. Finally, the closing section of the paper attempts to take a quick look ahead to some of the major issues directly or indirectly affecting the handicapped which we anticipate will come before the 93rd Congress.

We hope that you will find the following information of some value in our mutual effort to improve services to all disabled children and adults.

Robert M. Gettings
Executive Director

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I. INTRODUCTION

The recently adjourned 92nd Congress will not be remembered as a period of great legislative advances on behalf of handicapped citizens or, indeed, domestic legislation generally. The high level of partisanship engendered by a Republican President and a Democratic Congress, the continued pre-occupation with the Southeast Asian conflict and the re-emergence of a loosely-knit but effective conservative coalition combined to limit domestic legislative gains.

Nonetheless, despite several disappointments, some important legislation affecting the handicapped was enacted and, hopefully, the groundwork was laid for more significant accomplishments during the upcoming session of Congress. Before examining the specific legislative proposals enacted and considered by the 92nd Congress, however, perhaps we should review some of the overriding issues which plagued Congress during 1971 and 1972. Although some of these issues may seem far removed from the immediate concerns of handicapped children and adults, frequently they set the tone of events and, thus, determined the fate of a wide variety of domestic legislative thrusts.

LEGISLATIVE-EXECUTIVE RELATIONS

Senate Minority Leader Hugh Scott (R-Pa.) recently pointed out that "not since 1849 has a President come into office without at least one of the two Houses being of his own Party."[1] The pressures of trying to function with an Administration of one party and the legislature controlled by another led to a high level of partisan bickering and inaction on many key legislative proposals in the 92nd Congress.

From the point of view of the Nixon Administration, only 141 of the 318 Presidentially-sponsored measures (or 44 percent) were enacted into law.[2] More importantly, of the five top priority legislative proposals outlined by the President in his 1971 State of the Union message, only one - general revenue sharing - was enacted into law in a form acceptable to the Administration. Congress refused to act on the President's

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1. Congressional Record, October 14, 1972, p. S18172.

2. Ibid.

proposals for reorganization of the executive branch of government, environmental protection and national health insurance and rejected the Administration's welfare reform plan. Even in the area of revenue sharing the President won only a partial victory since none of his six special revenue sharing plans were approved by Congress.

The batting average of the Democratic leadership in Congress was somewhat better but there were still many disappointments including the failure to pass a national health insurance bill, an increase in the minimum wage, a no-fault insurance bill, comprehensive housing legislation, strict strip mining controls and a consumer protection measure.

Even though the Congress held the initiative in the domestic legislative arena and displayed a willingness to use it, the President blocked several key pieces of legislation by exercising his veto power. In all, the President vetoed some nineteen bills during the 92nd Congress including such keystone measures as the Economic Opportunity Amendments of 1971, the HEW-Labor Appropriation bill for FY 1973 (twice), the Rehabilitation Amendments of 1972, the Appalachian Regional Development Amendments of 1971, the Federal Water Pollution Control Amendments of 1972, the Railroad Retirement Benefits bill, the Older Americans Amendments of 1972, and the Public Works and Economic Development Amendments of 1972. In only two instances - water pollution control and railroad retirement benefits - was the Democratic leadership able to muster the necessary 2/3 majority to override the President's veto.

During 1972, the split in political responsibility between the executive and legislative branches intensified the normal pressures of an election year. These problems culminated in an end-of-the-session battle over the relative prerogatives and responsibilities of the President and Congress in controlling federal spending. President Nixon proposed that a $250 billion ceiling be placed on federal outlays during fiscal 1973 and that the Administration be granted complete discretion in determining where the cuts should be made. The Senate, however, balked at the idea of giving the President what many members felt was a *carte blanche* to supercede the appropriations decisions already reached by Congress. In the end, the Administration and Congress reached an impasse on the question of how cuts in federal spending should be applied and the proposed spending ceiling was dropped. The issues raised during the debate, however, go to the heart of the historical question over the relative powers of the executive and legislative branches of government.

Paralleling the discussions concerning the authority of Congress to control federal spending was an equally hot debate over whether the President has the constitutional power to commit the country

to conflicts such as the Vietnam war without the clear consent of the Congress. These issues, which were exacerbated by the political differences between the Administration and Congress, seem likely to continue to fester during the upcoming session of Congress.

THE CONSERVATIVE COALITION

With the exception of the 89th Congress, following the landslide election of President Johnson, a loose coalition of Southern Democrats and Northern and Western Republicans has held the balance of power in Congress. Although not formally organized, this coalition has effectively controlled the actions of Congress through the activities of senior members who serve as committee chairmen and ranking minority members. When necessary, the coalition has also shown that it can mobilize a voting majority on the floor on certain key issues (e.g., anti-busing bills).

The members of the coalition are far from homogenous. In fact, they differ widely in political persuasions, legislative interests and backgrounds and, thus, fail to agree on many issues before Congress; but they all share certain values and concerns including a general opposition to sharply increased federal spending, support for a strong defense posture, opposition to welfare "handouts", and concern about the growth in the federal bureaucracy.

Although the conservative coalition is rather nebulous and hard to identify, most close observers of Congress agree that it does function and is a continuing roadblock to the enactment and funding of progressive domestic legislative programs.

THE WAR IN SOUTHEAST ASIA AND FOREIGN POLICY

The gradual withdrawal of American troops from Vietnam had the effect of somewhat tempering Congressional debate over U.S. involvement in Southeast Asia during 1971-72. Nonetheless, the war remained an overriding concern of many Congressmen and war-related debates continued to occupy a sizable portion of the Congressional calendar.

The Nixon Administration also seemed preoccupied with finding an acceptable peace formula in Southeast Asia, preventing a Mideast explosion and otherwise solidifying American relations around the globe. The President's highly publicized trips to China and Russia demonstrated the Administration's intentions of concentrating on foreign affairs in the months preceding the 1972 election. One consequence of this policy was that the attention of Congress and the American people was shifted away from many pressing problems at home.

CIVIL RIGHTS

For the past twenty years Congress has faced recurring debates over the protection of civil rights of black citizens. The 92nd Congress was no exception. However, as the more blatant forms of social discrimination have been eliminated in the Southern states, the battleground has slowly spread to large Northern and Western cities as well as the South. Landmark decisions by the federal courts have led to the implementation of mandatory cross-district busing plans in order to achieve racial balance in the public schools. Opposition to "forced busing" and "social experimentation" has run high, especially among white suburbanites. This public outcry spilled over into Congress in 1971 and 1972 as both the House and the Senate considered a variety of anti-busing measures. These bills and amendments consumed many hours of Congressional debate and deflected attention away from other domestic legislative concerns.

During the past session, Congress exhibited a willingness to expand the meaning of civil rights legislation to encompass additional groups of citizens whose civil and constitutional rights have been denied. Congress adopted a resolution calling for an amendment to the U.S. Constitution to protect the rights of women.

In addition, Senator Humphrey, Representative Vanik and others introduced bills which would have extended coverage of the 1965 Civil Rights Act to the handicapped. Although these bills were not enacted, a provision was added to the vetoed Rehabilitation Amendments of 1972 (H.R. 8395) which would have forbidden all federal grantees and contractors to discriminate against the handicapped (see details on p. 25). The likelihood of further Congressional consideration of these bills and other legislation involving the rights of the handicapped seems high.

THE FAILURE OF WELFARE REFORM

President Nixon first announced his plan for reforming the federal-state welfare system in August, 1969. The plan called for building a federal floor under the income of families receiving Aid to Families with Dependent Children (AFDC) and extending coverage to the so-called working poor. Called the Family Assistance Plan, the President's proposal had a rather favorable initial reception but soon ran into a crossfire of criticism in Congress. Senator Russell Long (D-La.), influential Chairman of the Senate Finance Committee, and other House and Senate conservatives criticized the President's plan as too costly and designed to discourage able-bodied welfare recipients from seeking and retaining jobs. Welfare rights groups and a coalition of liberal social welfare organizations, on the other hand, attacked the Administration's proposal as niggardly and

demanded a $6,500 guaranteed annual income for a welfare family of four and elimination of regressive work requirements.

Caught in the middle, the Administration's welfare reform plan finally was defeated in the Senate amid a shower of recriminations. Liberals who pushed for a somewhat more generous compromise plan accused the Administration of only half-hearted support for its own proposal and an unwillingness to seek the necessary accommodations to achieve a voting majority. Last minute efforts to include a test of several different welfare reform plans, including Senator Long's so-called "Workfare" proposal and the Administration's FAP plan, were rejected by a House-Senate conference committee.

Despite the defeat of welfare reform, the Social Security Amendments of 1972 (H.R. 1), as enacted, contain a number of significant advances which promise to have beneficial effects on the lives of many handicapped citizens. A review of these provisions is provided in the following text (pp. 6-11).

* * * *

With the above discussion as a general backdrop, let us next turn to a review of bills enacted by the 92nd Congress.

II. BILLS ENACTED BY THE 92ND CONGRESS

SOCIAL SECURITY AMENDMENTS OF 1972 (P.L. 92-603)

H.R. 1, the Social Security Amendments of 1972, had the somewhat dubious distinction of being the first bill introduced in the 92nd Congress and also one of the last enacted before adjournment - nearly two years later. When it was originally introduced, the bill included the main features of the Nixon Administration's welfare reform plan which called for establishing a $2,400 minimum yearly income for an AFDC family of four. After scores of proposals and counter-proposals and months of acrimonious debate, Congress finally abandoned hope of reaching a compromise in the waning hours of the session and enacted a truncated bill shorn of all welfare reform provisions affecting AFDC families.

Despite the highly publicized failure of Congress to reach agreement on welfare reform, the final version of H.R. 1 still contains a number of provisions of importance to mentally retarded and other handicapped individuals. The following is a brief description of these provisions. More generalized analyses of this omnibus legislation, which was signed into law by President Nixon on October 30, 1972 (P.L. 92-603), are available from other sources.* The objective of this analysis is simply to highlight and interpret key features affecting handicapped citizens.

Social Security Cash Benefit Provisions

Childhood Disability Benefits. Benefits will be paid to the disabled child of a retired, deceased or disabled worker if the disability began before age 22 instead of 18 as under present law. In addition, an individual entitled to childhood disability benefits may become re-entitled if he is again disabled within a period of seven years after the termination of benefits. The latter provision especially might assist those handicapped disability recipients with marginal employment capabilities.

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* See, for example, H.R. 1 - Summary of Social Security Amendments of 1972 as Approved by the Conferees, Committee Print published jointly by the Senate Committee on Finance and the House Committee on Ways and Means, October 17, 1972; and APWA Washington Report, November 3, 1972 (Vol. 7, No. 5), published by the American Public Welfare Association.

Liberalization of the Retirement Test. The amount a social security recipient (including a childhood disability recipient) may earn without loss of benefits was raised from $1,600 to $2,100 annually. In addition, income above $2,100 will only be reduced by $1 for each $2 of earnings. Under present law benefits are reduced by $1 for each $2 of earnings between $1,680 and $2,800 and for each $1 of earnings over that amount. This change again should aid marginally employable recipients of childhood disability benefits.

Reduction in Waiting Period for Disability Benefits. The current six month waiting period before an individual can collect disability benefits was reduced to five months.

Disability Insured Status of Blind Individuals. The existing test for disability insurance benefits (generally 20 quarters of coverage in the past 40 calendar quarters preceding disablement) is eliminated for blind persons. Thus, a blind person is insured for disability benefits if fully insured--i.e., if he has as many quarters of coverage as the number of years elapsed since 1950 (or the year he reached 21, if later) and up to the year in which he became disabled.

Trust Fund Expenditures for Rehabilitation Services. The amount of social security trust fund monies that may be used to pay the costs of rehabilitating social security disability beneficiaries is increased from 1 percent under current law to 1 1/4 percent in FY 1973 and 1 1/2 percent in FY 1974 and subsequent fiscal years.

Medicare-Medicaid Amendments

Medicare Coverages for the Disabled. Hospital and medical insurance coverage under Title XVIII of the Social Security Act (Medicare) was extended to an estimated 1.7 million social security disability beneficiaries. This provision, effective July 1, 1973, will provide coverage for some 260,000 childhood disability recipients between the ages of 18 and 65 (including some 179,000 who have been diagnosed as mentally retarded). Medicare coverage begins only after the recipient has received regular disability payments for 24 consecutive months.

Intermediate Care Maintenance of Effort in Public Institutions. P.L. 92-603 stipulates that the base period for determining maintenance of effort in regard to non-federal expenditures for operating public institutions for the mentally retarded will be the four quarters immediately preceding the quarter in which the state elected to make intermediate care services available. In addition, the maintenance of effort requirement is limited to the first three years the program is in effect under Title XIX; or, in other words, it will expire on January 1, 1975.

In its report on the legislation the Senate Finance Committee added that, "The committee expects that the maintenance of effort provision will be implemented in a manner which will not impede the relocation and transfer of persons in public institutions for the mentally retarded to non-institutional community settings, and between institutions within the State."

Effective Utilization Review Programs in Medicaid. P.L. 92-603 authorizes a one-third reduction in federal matching payments, effective July 1, 1973, for long-term stays in hospitals, nursing homes, intermediate care facilities and mental hospitals if states fail to institute effective controls over the use of institutional services or conduct independent professional audits of patients as required by law. The Secretary of HEW is also authorized to compute a reasonable differential between the cost of skilled nursing services and intermediate care services to medicaid patients.

Professional Standards Review Organizations. The new legislation provides for the formation of local professional standards review organizations, consisting of a substantial number of practicing physicians (usually 300 or more), to assume responsibility for on-going, comprehensive review of services rendered under medicaid and medicare. These qualified physician-sponsored organizations are designed to insure that all institutional services are medically necessary and provided in accordance with professional standards.

Intermediate Care in States Without Medicaid. H.R. 1 permits federal matching for intermediate care services in states which did not have a medicaid program in operation on January 1, 1972.

Repeal of Maintenance of Effort Requirement for Mental Hospitals. The 1972 Amendments delete the present requirement that states spend at least as much for care of the aged mentally ill in public institutions as they did in FY 1965.

Coverage under Medicaid of Intermediate Care for Institutionalized Mentally Ill Persons. If a state chooses to provide skill nursing and hospital services to individuals age 65 and over in mental hospitals, they also must agree to furnish intermediate care services, effective December 31, 1972.

Independent Review of Intermediate Care Facility Payments. The new legislation mandates independent professional review to determine proper placement and care of patients in all intermediate care facilities.

Medicaid Coverage of Mentally Ill Children. The 1972 Amendments authorize coverage of inpatient care in mental institutions for medicaid-eligible children under 21 years of age provided: (1)

they are involved in an active treatment program; (2) the institution is accredited; and (3) the state maintains at least its present level of fiscal expenditures for care of mentally ill children. The estimated federal cost of this new program, which goes into effect on January 1, 1973, is $120 million in FY 1974. Another Senate amendment, which would have authorized demonstration projects to test the extension of medicaid benefits to mental hospital patients between the ages of 21 and 65, was deleted by House-Senate conferees.

Penalty for Failure to Provide Child Health Screening Services Under Medicaid. Under a new provision of H.R. 1, states would have their federal share of AFDC matching funds reduced by one percent beginning in FY 1975 if they fail: (1) to inform adults in AFDC families of the availability of child health screening services; (2) to provide or arrange for such services; or (3) to arrange or refer for corrective treatment children found to suffer from illness or impairment.

Supplemental Security Income for the Aged, Blind and Disabled

H.R. 1 replaces existing state operated programs under Titles I (Old Age Assistance), X (Aid to the Blind) and XIV (Aid to the Permanently and Totally Disabled) with a single federally financed and administered program of cash assistance to needy aged, blind and disabled citizens, effective January 1, 1974. The following describes the main features of the new program.

Income Payments and Earning Disregards. Aged, blind and disabled persons with no other sources of support are guaranteed a monthly income of $130 for an individual and $195 for a couple. At present, single disability recipients in twenty-nine states receive monthly payments of less than $130.

The first $20 of social security benefits or any other income each month will be disregarded in determining benefits under the program. An additional disregard of $65 of earned income plus one-half of all earnings above that amount will be allowed in order to encourage recipients to work, when possible.

Definition of Disability. A modified version of the present Social Security definition of disability is adopted--i.e., "inability to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment which ---can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)."

Other Federal Eligibility Standards. Uniform national income and resource standards are established for determining need for

cash assistance under the new program. In general, an individual will be eligible if his resources are less than $1,500 ($2,250 for a couple); however, the value of a home, household goods, personal effects, an automobile and property needed for self-support are excluded along with life insurance policies with a total face value of less than $1,500.

Coverage for Disabled Children. One important new feature of the legislation is that needy children of all ages will be eligible for benefits (although the resources of the parents would be considered in determining eligibility of an applicant under 21 years of age). This amendment, in effect, permits a substantially disabled child from a poor family to qualify for significantly higher benefits than are available to a normal AFDC child.

Benefits for Institutional Residents. As under the former law, individuals residing in public institutions will not be eligible for assistance; however, patients in a medical institution, which qualifies under Title XIX, would get $25 a month to cover personal expenses.

State Supplementation. States will be free to supplement the amount beneficiaries received from the federal government and enter into agreements for federal administration of supplemental payments. The legislation includes no provision for federal participation in the cost of supplemental benefits but does assure the states that the federal government will assume the cost of any supplemental payments which exceed the state's share of the cost of AB, APTD and OAA benefits in FY 1972.

Vocational Rehabilitation Services. All disabled and blind recipients will be referred to the state vocational rehabilitation agency. The federal government will pay 100 percent of the cost of any rehabilitation services rendered to such clients in an effort to restore as many as possible to productive activity. Any disabled or blind person who refuses such services without good cause will be ineligible for cash assistance.

Medicaid Coverage and Ineligibility for Food Stamps. The bill exempts from medicaid coverage newly eligible recipients who qualify because of the new provision of a $130 minimum benefit. In addition, no recipient under the new program will be eligible for food stamps or surplus commodities.

Social Services. States are authorized to continue to provide social services to aged, blind and disabled recipients and receive 75 percent federal matching for such services subject to the limitations established in the recently enacted revenue sharing legislation (P.L. 92-512).

Administration. The new federalized cash assistance program will be administered by the Social Security Administration.

Child Welfare Services and Social Services

Child Welfare. H.R. 1 increases the annual authorizations for child welfare services to $196 million in FY 1973 rising to $266 million in FY 1977 and thereafter. Increased funds will be used to expand foster care services, preventive child welfare programs and adoption services--including action to increase adoption of hard-to-place physically and mentally handicapped youngsters.

Social Services. P.L. 92-603 includes a savings clause which assures states that they will be reimbursed for the first quarter of FY 1973 at the rate applicable prior to passage of the restrictions on social services expenditures under Title III of the revenue sharing bill (P.L. 92-512). However, the resultant increase in federal funding for the quarter may not exceed $50 million.

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972 (P.L. 92-512)

On October 20, President Nixon signed into law the so-called general revenue sharing bill (H.R. 14370) in a ceremony at Independence Hall in Philadelphia. Without question, the enactment of this legislation constituted the President's major domestic legislative victory of 1972.

The new legislation authorizes a broad new program of fiscal relief for hard-pressed state and local governments and gives the states the option of having the federal government collect individual state income taxes. In addition, P.L. 92-512 places new restrictions on federal spending for the delivery of social services to present, former and potential welfare recipients; however, while clamping a lid on social services expenditures, Congress included new assurances that service programs for the mentally retarded will be given high priority in the receipt of such monies as are made available.

The following is a brief summary of the main features of P.L. 92-512:

General Revenue Sharing

The bill, as enacted, provides $30.1 billion in no-strings-attached aid to state and local governments over a five year period (retroactive to January 1, 1972). During the first year of the program, $3.5 billion will be awarded to local jurisdictions while states will receive $1.8 billion. Both state and local aid will increase gradually until it reaches a total of $6.4 billion in the fifth year of the program. The relative balance between state and local support, however, will remain constant (1/3 state - 2/3 local) each year.

One important and controversial feature of the legislation is that payments will be automatically distributed to eligible governmental units over the five year period without having to clear through the Congressional appropriations process. Among the other key elements in the program are:

Funding Mechanism. A permanent five year authorization/appropriation is set up. All funds made available are deposited in a special federal trust fund. The U.S. Treasury Department, in turn, distributes these funds among eligible state and local jurisdictions on a quarterly payment basis.

Eligibility. All states and general purpose local governments (counties, townships and incorporated municipalities) - regardless of population - are eligible. However, there is a minimum allocation of $200 for municipalities and townships and no local jurisdiction may receive an allotment which exceeds 50 percent of its adjusted income from taxes plus intergovernmental transfers. In addition, no local government may receive a per capita allocation of less than 20 percent nor more than 145 percent of the average per capita of all local governments within the state.

State and Local Trust Funds. In order to facilitate proper federal auditing and accounting, state and local governments are required to establish special trust funds in which revenue sharing funds will be deposited. Revenue sharing funds must be used within a reasonable period of time in accordance with Treasury Department regulations (currently eighteen months).

Expenditure Priorities. No limitations are placed on the purposes for which state revenue sharing funds may be expended. Local dollars, however, must be used for specified "high priority expenditures" outlined in the Act. For maintenance and operating expenses, local funds may be used for the following program categories: public safety, environmental protection, public transportation, health and recreation, financial administration, social services for the poor and aged and library services. No restrictions are placed on the use of funds for local capital expenditures except that such expenditures must be deemed "ordinary and necessary."

Prohibition Against Use as Matching Funds. Revenue sharing funds may not be used to meet the matching requirements under other federal grant-in-aid programs.

Maintenance of Effort. State governments may not reduce their level of financial aid to local governments from non-revenue sharing funds. There is no "maintenance of effort" requirements applicable to local jurisdictions.

Non-Discrimination. State and local governments are forbidden to use revenue sharing funds in a manner which discriminates against individuals or groups on the basis of race, color, national origin or sex.

Prevailing Wages. Local governments would be obligated to pay prevailing wages to persons employed with revenue sharing funds. In addition, for construction projects funded by 25 percent or more of revenue sharing funds, local jurisdictions must provide assurances that laborers and mechanics employed by contractors or sub-contractors will be paid prevailing wages for similar construction in the area in accordance with the federal Davis-Bacon Act.

State and Local Distribution Formula. Each state receives the higher amount based on one of two alternative formulae: the formula contained in the House-passed bill which favors urban-suburban states or the rural-oriented formula in the Senate-passed bill. The House formula distributes funds to the states (including all local jurisdictions) based on relative population, urbanized population, and population inversely weighted for per capita income. The Senate version, on the other hand, considers population, state and local tax effort, and inverse per capita income in its distribution scheme. Once basic entitlements are determined, all state allotments are reduced by a set percentage (approximately 9.1 percent in FY 1973) in order to keep the payments within the authorized spending level.

After the state allocations are made, the funds are divided with one-third going to the state government and two-thirds to local jurisdictions. The local pot is then further divided by: (1) distributing funds to county areas based on county population, tax effort and inverse per capita income; (2) splitting the monies between counties and municipalities on the basis of adjusted tax revenues; and (3) dividing funds among municipalities within the county on the basis of population, tax effort and inverse per capita income.

After January 1, 1973, a state may adopt an alternative local distribution formula by using the optional factor of population multiplied by tax effort or population multiplied by inverse per capita income. The weight given to these factors can vary from zero to 100 and the change may be applied at the county level, the municipal level or both. However, any alteration in the formula would have to be applied uniformly across the state and the state could only alter its formula once during the five year program.

Reporting. Each state and local government must submit a report to the Treasury Department detailing how it intends to use revenue sharing funds as well as an end-of-the-year report specifying how revenue sharing monies were expended or obligated. Copies of these reports must be published in state and local newspapers.

Budget and Audit Procedures. State or local governments must follow the same laws and procedures in expending revenue sharing funds as it does for its own revenues. Responsibility for developing fiscal accounting and auditing procedures is delegated to the Treasury Department.

Social Services

P.L. 92-512 includes an important rider which is intended to curb "open-ended" federal spending on social services to past, present and potential welfare recipients. This amendment places a $2.5 billion annual ceiling on social services expenditures under Titles I, IV A, X, XIV, and XVI of the Social Security Act and institutes new restrictions on eligibility.

Provision is made for allotting these social services monies among the states on the basis of population. States may use the funds to support services to clients in the following six categories: child care, family planning, services to mentally retarded children and adults, narcotics treatment, care of alcoholics, and foster homes. Services may be provided to past, present and potential welfare recipients in these six specified categories. However, ninety percent of the remainder of the state's allotment must be used exclusively for social services to current welfare clients.

During the floor debate on acceptance of the House-Senate Conference Report on H.R. 14370, questions were raised in both Houses concerning the interpretation of the term "mentally retarded." Congressman Durwood G. Hall (R-Mo.) in the House and Senator Robert J. Dole (R-Kan.) in the Senate asked: "Would the term 'mentally retarded' be interpreted to include all developmentally disabled persons - including non-retarded cerebral palsied and epileptic individuals?"

They received sharply divergent answers. Chairman Wilbur Mills of the House Ways and Means Committee said, in essence, yes, that was the intent of the House. Faced with a similar question, however, Senator Russell Long, Chairman of the Senate Finance Committee, said no, that was not his interpretation of Congress' intent.

Since there was a clear difference of opinion between the two Houses of Congress, resolution of this issue will rest with HEW which is expected to issue implementing regulations soon.

The restrictions placed on social service funding in Title III of the revenue sharing bill reflect the growing concern in Congress and the Administration over the rapidly escalating costs of the program. By specifying the categories of eligible recipients and placing a ceiling on program expenditures, it was felt that the often bitter debate over the future of the social services program, which has raged both in and out of Congress over the past few years, could be settled. Only time will tell whether this strategy proves successful.

INTERMEDIATE CARE AMENDMENTS OF 1971 (P.L. 92-223)

In the waning days of the 1st Session of the 92nd Congress, the Senate attached to an obscure Social Security bill (authorizing lump sum death payments) a series of amendments to the Work Incentive Program (WIN) and the Intermediate Care Facilities program. The bill, with these riders, was eventually signed into law by President Nixon on December 28, 1971.

In addition to transferring authority for intermediate care benefits to Title XIX, P.L. 92-223 also permits public institutions for the mentally retarded to participate in the intermediate care program.

Transfer of Intermediate Care Authority to Title XIX

Section 4(a)(1) of P.L. 92-223 transfers authority for funding intermediate care facilities from Title XI of the Social Security Act (General Provisions) to Title XIX (Medicaid). The main intent of Congress in passing this legislation was to create closer integration between skilled nursing home services and intermediate care. In addition, the transfer extends ICF benefits to medically indigent persons in states which include coverage for such individuals in their state medicaid plan. Previously, ICF benefits were available only to categorically eligible (indigent) persons. In addition, intermediate care coverage is extended to children (from birth to age eighteen) in those states which elect to extend services to all eligible youngsters under its Medicaid plan.

Section 4(a)(2) revises the definition of an "intermediate care facility" to make it clear that ICF's are designed for: (1) persons with health related conditions who require care beyond residential or boarding home care; and (2) persons who, in the absence of ICF's, would require placement in a skilled nursing home or mental hospital.

Extension of Intermediate Care Benefits to the Mentally Retarded in Institutions

Section 4(a)(2)(d) of P.L. 92-223 would permit publicly operated institutions for the mentally retarded to qualify as intermediate care facilities provided: (1) the primary purpose of the institution (or distinct part thereof) is the provision of health of rehabilitative services to mentally retarded individuals; (2) the services provided meet standards prescribed by the Secretary of Health, Education and Welfare; (3) all retarded residents participating in the intermediate care program are receiving "active treatment"; and (4) there is no reduction in the level of state and/or local support for the program.

Provisions for Independent Professional Review of Intermediate Care Facilities

Section 4(b) of P.L. 92-223 requires that a regular program of independent professional review of intermediate care facilities be established in each state. This program must include: (1) a medical evaluation of each patient's need for ICF care; (2) a written service plan prior to admission or authorization of benefits; and (3) assurances that the ICF provides a minimum level of health care services as prescribed by the Secretary.

One or more teams, composed of physicians or registered nurses and other appropriate health or social service personnel, must make periodic, on-site inspections of each ICF. Such inspections must include a review of: (1) the care being provided ICF beneficiaries; (2) the adequacy of the services being provided patients in such facilities; (3) the necessity and desirability of continued placement of such patients in the ICF; and (4) the feasibility of meeting their health care needs through alternative services. Each inspection team is required to make a full report, with recommendations to the agency responsible for administering the state's medicaid plan.

Repeal of Existing ICF Authority and Effective Date of Legislation

Section 4(c) of P.L. 92-223 repeals Section 1121 of the Social Security Act which contained the former authority for intermediate care benefits.

Section 4(d) establishes January 1, 1972 as the effective date of the new statutory provisions related to intermediate care.

WAGNER-O'DAY AMENDMENTS (P.L. 92-28)

The Wagner-O'Day Amendments of 1971 (P.L. 92-28) extend special preference in bidding on government contracts to workshops for the severely handicapped. Under the prior law, such preference was limited to workshops for the blind.

A 14-member Committee for Purchases of Products and Services of the Blind and Severely Handicapped is also established under the 1971 Amendments. The functions of the Committee, which consists of representatives of eleven federal agencies and three public members, are to select and publish a list of products and services which can be produced or provided by workshops and to determine the fair market price of such commodities. The Committee is also empowered to make rules and regulations and designate a central non-profit agency or agencies to facilitate the distribution of government contract work among qualified workshops. However, preference must be given to workshops for the blind in the production of commodities; in addition, workshops for the blind will receive priority in the provision of services through December 31, 1976.

The term "severely handicapped" is defined in P.L. 92-28 as "an individual or class of individuals under a physical or mental disability, other than blindness, which. . .constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment."

LABOR-HEW APPROPRIATIONS ACT FOR FY 1972 (P.L. 92-80)

The FY 1972 appropriations measure for the Departments of Labor and Health, Education, and Welfare provided for expenditures totalling $20.8 billion (excluding trust fund outlays). This total exceeded FY 1971 funding by some $3.1 billion and topped the President's original budget requests by some $581 million.

The final compromise bill included $21.7 million for formula and project grants under Title I of the Developmental Disabilities Act (P.L. 91-517). This figure represented a $10.5 million increase in the amount appropriated in FY 1971 and requested in the President's FY 1972 budget. Other significant increases in programs for the handicapped included: (a) a $42 million increase in funds for basic vocational rehabilitation services; (b) a $2.5 million rise in Foster Grandparents appropriations; and (c) an initial appropriation of $4.25 million for demonstration and training grants to University Affiliated Facilities.

Additional information on FY 1972 funds for programs for the mentally retarded and handicapped can be found in Appendix A.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1972 (P.L. 92-424)

P.L. 92-424 requires the Secretary of Health, Education, and Welfare to develop procedures to insure that not less than ten percent of Headstart enrollment opportunities are available to handicapped children. The Secretary is also charged with reporting back to Congress within six months after enactment of the legislation (and annually thereafter) on the status of handicapped children in Headstart. In citing its reasons for adding this amendment to the Act, the Senate Committee on Labor and Public Welfare noted that handicapped children have generally been excluded from the Headstart program. The Committee went on to say that the earmarking requirement was designed "to guarantee that a mother, herself disadvantaged because of poverty, is not discriminated against again because she has a handicapped child" (S. Report No. 92-792).

SMALL BUSINESS INVESTMENT ACT OF 1972 (P.L. 92-595)

Congress added an amendment to the Small Business Act which establishes a new program of Small Business Administration loans and loan guarantees for handicapped individuals

and public and private organizations "operated in the interest of handicapped individuals." In order to qualify, an agency will have to be operated on a non-profit basis, be in compliance with federal occupational health and safety standards and employ handicapped individuals for not less than 75 percent of the man-hours required for the production or provision of commodities and services.

The maximum time for repayment of any loan is fifteen years and SBA is authorized to guarantee loans through private banks up to 100 percent (10 years and 90 percent are the maximum limits on conventional SBA assistance). The SBA share of any loan may not exceed $350,000. While the usual "sound value" and "reasonable security" tests will apply, the Act stipulates that if there is a doubt as to the soundness of the loan, it will be resolved in favor of the applicant.

For purposes of the Act, the term "handicapped individual" is defined as "a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable."

EMERGENCY EMPLOYMENT ACT OF 1971 (P.L. 92-54)

This legislation, signed into law by President Nixon on July 12, 1971, authorizes $750 million in FY 1972 and $1 billion in FY 1973 to provide approximately 150,000 public jobs in areas such as recreation, education, health, housing, public safety, and environmental improvement. These funds may be released when the national unemployment rate reaches 4.5 percent for three consecutive months. The Act also authorizes $250 million in both FY 1972 and FY 1973 for areas with an especially high rate of unemployment (six percent or more).

Eighty percent of P.L. 92-54 funds are distributed among the states on the basis of the state's relative proportion of unemployed persons compared to the national average (minimum allotment $1.5 million); the remaining twenty percent is distributed at the discretion of the Secretary of Labor.

The Federal government pays for ninety percent of the cost of employment projects under the program with local governments picking up the balance; however, if the Secretary finds that the local government is unable to pay the ten percent matching, he can determine that the Federal government will cover up to 100 percent of the program costs.

Experience with the Emergency Employment program, thus far, indicates that these funds have been used in a number of states to employ individuals to work with the mentally retarded as well as to hire retarded workers in entry level positions.

SUPPLEMENTAL APPROPRIATIONS FOR FY 1972 (P.L. 92-184)

Congress approved a supplemental appropriations measure which included a $12,250,000 increase in funds for the Foster Grandparents Program. This last minute action brought the total amount available for the program to $25 million - nearly double the amount originally voted by Congress in the regular appropriation bill and 2 1/2 times as much as provided in the FY 1971 budget.

MILITARY MEDICAL BENEFITS AMENDMENTS (P.L. 92-58)

P.L. 92-58 extended existing special benefits to handicapped dependents of uniformed servicemen to the dependents of military personnel killed in hostile fire zones.

REVENUE ACT OF 1971 (P.L. 92-178)

In addition to reducing individual income taxes and certain excise taxes, the Revenue Act of 1971 authorizes federal income tax deductions for domestic help and child care expenses which are required in order to permit a taxpayer to support a child under 15 or a disabled dependent regardless of age.

REORGANIZATION PLAN NO. 1 OF 1971 - ACTION

On March 24, 1971, President Nixon presented a plan for consolidating a variety of volunteer programs operated by a number of government agencies into one new, independent agency called ACTION. The programs involved were: Volunteers in Service of America (VISTA) and Ambulatory and Special Volunteer Program from OEO; Foster Grandparents and Retired Senior Volunteer Program (RSVP) from HEW; and Service Corps of Retired Executives (SCORE) and Active Corps of Executive (ACE) from the Small Business Administration. In addition, the President promised to delegate authority for administering the Peace Corps (from State) and the Office of Voluntary Action (from HUD) to the new agency if the plan was approved.

Several questions were raised in Congress concerning the wisdom of the proposed reorganization but efforts to reject it eventually failed and ACTION became operational on July 1, 1971.

COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971 (P.L. 92-157)

P.L. 92-157 authorizes $2.9 billion over a three year period for construction grants, student loans and scholarship funds and grants. The legislation encourages health profession schools to develop new types of professionals who require less lengthy and costly training (e.g., physicians' assistants, dental therapists, etc.). Incentives are also

included to encourage health professionals to work in underserved areas (e.g., rural poverty areas).

NURSE TRAINING ACT OF 1971 (P.L. 92-158)

The Nurse Training Act of 1971 authorizes a total of $856 million over a three-year period for special project grants, financial distress grants, institutional support (via capitation formula grants), grants for the establishment of new nurse training programs, traineeships for advanced training and scholarship grants.

CHILD NUTRITION AMENDMENTS (P.L. 92-433)

In addition to amending the National School Lunch Act, P.L. 92-433 adds a new section to the Child Nutrition Act of 1966 to authorize $20 million annually for the next two fiscal years to carry out a pilot nutritional program for pregnant and lactating women and infants determined to be at risk of physical or mental damage.

EDUCATION AMENDMENTS OF 1972 (P.L. 92-318)

The omnibus Education Amendments of 1972 extends and amends various programs authorized under the Higher Education Act of 1965, the Vocational Education Act of 1963 and other Federal education statutes and creates a National Institute of Education to uncover new knowledge and stimulate reforms in the American educational system. In addition, the Act reduces the period for forgiveness of Federal loans to teachers of handicapped children from seven to five years.

SOCIAL SECURITY BENEFIT INCREASE (P.L. 92-336)

Congress added an election year increase in social security benefits as a rider to a bill to extend the ceiling on the public debt. P.L. 92-336 provides a 20 percent across-the-board increase in social security benefits (including benefits to some 179,000 mentally retarded adults disabled in childhood). For the first time, the Act also authorizes automatic cost-of-living adjustments in future benefits.

MATERNAL AND CHILD HEALTH AMENDMENTS (P.L. 92-345)

P.L. 92-345 extends existing authority to award special maternal and child health project grants for one additional year.

RIGHTS OF BLIND AND OTHER PHYSICALLY HANDICAPPED PERSONS IN THE DISTRICT OF COLUMBIA (P.L. 92-515)

This legislation makes it unlawful in the District of Columbia to discriminate against the blind and other physically handicapped persons in employment or to deny them equal access to

housing, public places, and public accommodations and conveyances. Penalties are established as punishment for those who disobey this new statute.

D.C. ADMISSION TO THE INTERSTATE COMPACT ON MENTAL HEALTH

The District of Columbia became the 43rd jurisdiction to join the Interstate Compact on Mental Health when Congress enacted P.L. 92-280.

FOREIGN ASSISTANCE ACT OF 1972 (P.L. 92-226)

This bill, which was signed into law by President Nixon on February 7, 1972, contains a rider which prohibits the Administration from expending any foreign aid monies until all impounded FY 1971 funds for programs operated by the Departments of Agriculture, Health, Education, and Welfare and Housing and Urban Development are released by the President.

NATIONAL ADVISORY COMMISSION ON MULTIPLE SCLEROSIS (P.L. 92-563)

This legislation creates a national advisory commission to determine the most effective means of finding the causes of and cures for multiple sclerosis.

COMMUNICABLE DISEASE CONTROL AMENDMENTS ACT (P.L. 92-449)

P.L. 92-449 extends and amends the present program of assistance to the states and localities for the prevention and control of communicable diseases. While authorizing the continuation of categorical grants for specific disease entities, the 1972 amendments do grant the Secretary of HEW authority to transfer funds from one category to another in order to meet needs as they arise.

III. BILLS VETOED BY THE PRESIDENT

On October 30, 1972, President Nixon "pocket" vetoed nine bills enacted by the 92nd Congress in what he said was an effort "to avoid the need for a tax increase next year." Among the vetoed bills were the Rehabilitation Amendments of 1972 (H.R. 8395), the Labor-HEW Appropriations bill (H.R. 16654) and the Older Americans Amendments. This section describes the major provisions of these and other bills vetoed by the President during the 92nd Congress.

REHABILITATION AMENDMENTS OF 1972 (H.R. 8395)

In vetoing H.R. 8395, President Nixon criticized the measure on five counts. First, he said the new amendments "would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character." Second, the bill would, in the President's words, "proliferate a host of narrow categorical programs which duplicate and overlap existing authorities and programs." Third, he criticized the "organizational rigidities" created by the bill and said these provisions would "undermine the ability of the Secretary of HEW to manage the program effectively." Fourth, the establishment of numerous committees and commissions provided for in the bill would "waste the taxpayers' dollar and. . .complicate and confuse the direction of the program," he added. Finally, the President said H.R. 8395 would authorize funds "far in excess of the budget request and far beyond what can be made available and used effectively."

In addition to extending and amending programs authorized under the fifty year old Vocational Rehabilitation Act, H.R. 8395, as enacted by Congress, contained important new initiatives on services to severely handicapped persons as well as a variety of other new and revised program authorities. The following analysis reviews the highlights of H.R. 8395 and discusses some of the implications of the vetoed bill (see discussion of future prospects of this legislation on p. 43).

Non-Vocational Services. Perhaps the most important new feature of the vetoed bill was the addition of a new Title II which authorized grants to assist states in providing services to handicapped individuals "for whom a vocational goal is not possible or feasible. . .." Unlike both the House and Senate passed versions of H.R. 8395, the conference committee's report

eliminated all reference to severely handicapped individuals and instead defined the term "rehabilitation", for the purpose of this title only, as "the goal of achieving, through the provision of comprehensive rehabilitation services, substantial ability to live independently or function normally with his family or community on the part of a handicapped individual who is not capable of achieving a vocational goal."

Authorizations for the new program were set at $30 million in FY 1973, $50 million in FY 1974 and $80 million in FY 1975. Funds were to be allotted among the states on the basis of population and per capita income with a minimum of $150,000 per state. However, the program would have operated on a project grant basis until appropriations reached the $20,000,000 level; after this point it would have automatically revested to a formula grant program.

The federal matching ratio for Title II projects was 90 percent. The Secretary was authorized to withhold up to 10 percent (but not more than $500,000) of the appropriated funds to support research, demonstration and training projects.

Service Priorities for the Severely Handicapped. Under Title I of the vetoed bill, states were directed to give priority to serving "those individuals with the most severe handicaps" in their basic state vocational rehabilitation program. In addition, state agencies would have been required to describe "the method to be used to expand and improve services to handicapped individuals with the most severe handicaps." Similar provisions, granting priority to the most severely handicapped clients, were contained in Section 121 (Innovation and Expansion Grants), Section 302 (Vocational Training Service Grants), Section 305 (Special Projects and Demonstration), and Section 402 (Research).

Individualized Written Rehabilitation Program. The final bill contained a Senate amendment which would have required that individualized written rehabilitation programs be developed for each handicapped client served by the state agency. This program, jointly developed by the rehabilitation counselor and the handicapped individual (or, in appropriate cases, his parents or guardians), would have spelled out the terms, conditions, rights and remedies under which services were to be provided to an individual and stated the long range and intermediate goals and objectives to be attained. All plans would have been reviewed at least annually and safeguards were included to assure that every individual capable of achieving a vocational goal had an opportunity to do so.

Consolidated Rehabilitation - Developmental Disabilities Plan. A provision authorizing states to submit a consolidated rehabilitation plan for vocational rehabilitation services, evaluation of rehabilitation potential, services to the severely

handicapped, and formula grants for the developmentally disabled was included in the final version of H.R. 8395. However, the language of Section 6 was modified by the conference committee to include provisions assuring that: (1) the state agency administering the Developmental Disabilities Act must agree to the consolidated state plan; (2) the Secretary of HEW may reject any consolidated state plan; and (3) the provision authorizing 10 percent transferability of appropriated funds was deleted.

Special Projects and Demonstrations. The special project grants section in the existing Act (Section 4(a)(1)) was rewritten and language authorizing grants for "problems related to the rehabilitation of the mentally retarded" was dropped. Instead, the vetoed bill would have directed HEW to give special emphasis to clients with the most severe handicaps.

Sheltered Workshop Study. H.R. 8395 directed the Secretary of HEW to conduct a comprehensive, 24-month study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals. This study was an outgrowth of concern in both Houses of Congress that workshops often function as "a dead-end street" for handicapped workers. It would have included an examination of the wages paid workshop employees, the types of work assigned, the number served by workshops, the nature and degree of client handicaps and many other questions surrounding the operation of sheltered workshops. A resolution detailing the areas to be examined was adopted by the Senate Labor and Public Welfare Committee and accepted by the conferees.

Office for the Handicapped. The conference committee's bill established an Office for the Handicapped within the Office of the Secretary of HEW. The specified functions of this new office included: (a) preparing and submitting a long range plan for serving handicapped individuals; (b) conducting a continuing analysis of the operation and effectiveness of HEW programs serving the handicapped; (c) identifying unnecessary duplication and overlap in such programs; (d) encouraging cooperative, interagency planning; (e) providing assistance to national advisory groups on the handicapped; (f) promoting the prompt utilization of research findings; (g) serving as a central clearinghouse for information and resources; and (h) evaluating existing information and data systems, identifying gaps and ways of filling them, and spearheading the development of a coordinated, Department-wide information and data retrieval system. However, in its report, the conference committee also emphasized that the Office for the Handicapped would be an advisory unit and, as such, would have no budgetary, policy or program control over any operating agency within the Department.

Organization and Administration. The vetoed measure would have established, by statute, a Rehabilitation Services

Administration within HEW and delegated to the Commissioner of RSA responsibility for administering all aspects of the rehabilitation program authorized under the Act (presently delegated to the Secretary of HEW). H.R. 8395 also created a Division of Research, Training and Evaluation within RSA and increased the number of authorized positions to operate this and other RSA programs. [N.B. Rehabilitation research, training and evaluation activities are currently centralized in the Office of the Administrator of the parent Social and Rehabilitation Service.]

Extension of Basic Program. The basic federal-state vocational rehabilitation program would have been extended for a period of two years with authorization levels of $800 million in FY 1973 and $975 million in FY 1974. In addition, several significant changes were made in state plan requirements besides those mentioned above. The existing Hill-Burton allocation formula, which favors poorer states, was retained despite efforts in the Senate to modify it.

Innovation and Expansion Grants. Separate existing authorities for innovation and expansion grants would have been consolidated into a single formula grant program. Authorization levels for the program were: $50 million in FY 1973; $60 million in FY 1974 and $75 million in FY 1975.

Non-Discrimination and Employment Under Federal Contract. H.R. 8395 contained a provision forbidding discrimination against otherwise qualified handicapped persons in any federally assisted program or activity.

The bill also would have required all federal contractors and subcontractors to take affirmative action to employ qualified handicapped individuals. Complaints could be filed with the Department of Labor by any aggrieved handicapped individual.

Federal Interagency Committee on Handicapped Employees. A Federal Interagency Committee on Handicapped Employees would have been established to investigate the status of handicapped individuals working for the federal government and report to Congress by June 30, 1973. Every federal agency was required to submit an affirmative action plan for hiring, placing and advancing handicapped individuals within 180 days after enactment of the legislation. In addition, the Interagency Committee, through the Secretary of HEW, would have been responsible for recommending to appropriate state agencies policies and procedures to improve employment opportunities for handicapped workers.

Client Advocacy. The conferees eliminated a provision in the Senate bill which would have required the Secretary to set aside one percent of a state's basic allotment for establishing a system of client advocacy. Also deleted was a Senate

provision authorizing the Secretary to conduct experimental appeal projects in ten geographical areas. In place of these provisions, the vetoed version of H.R. 8395 authorized funds to establish 10 to 20 regional client assistance pilot projects. The purpose of these projects was to advise clients on available benefits and help them in their relationships with rehabilitation agencies. The Commissioner of RSA was authorized to set aside from special project grant funds $1 million to $2.5 million for this purpose in FY 1973 and $1 million to $5 million in the two succeeding fiscal years.

Mortgage Insurance and Annual Interest Grants for Rehabilitation Facilities. H.R. 8395 contained a provision authorizing mortgage insurance covering the construction of rehabilitation facilities. Such insurance would have covered up to 100 percent of the replacement value of the facility provided the total amount did not exceed $250,000. Initial capital would have been provided for the insurance fund and a $250 million restriction was placed on the total amount of outstanding mortgages.

In addition, the final bill authorized the RSA Commissioner to pay annual interest grants to states and other public or non-profit agencies to reduce the cost of borrowing for construction of a rehabilitation facility. Such grants would have been sufficient to reduce the interest rate by four percent or one-half of the going rate (whichever was less). $1 million was authorized in FY 1973, $3 million in FY 1974 and $5 million in FY 1975 for this purpose.

National Centers for Deaf-Blind Youths and Adults. Funds would have been authorized to establish and operate a National Center for Deaf-Blind Youths and Adults (authorizations: $5 million for construction and $800,000 for operation in FY 1973; $1.2 million in FY 1974 and $2 million in FY 1975 for operation).

Rehabilitation Centers for Deaf Individuals. $2 million was included in the bill for the establishment of centers to improve rehabilitation services to deaf persons in FY 1973. The authorization level would have increased to $4 million in FY 1974 and $7 million in FY 1975.

National Centers for Spinal Cord Injuries. For the purpose of establishing National Centers for Spinal Cord Injuries, the bill authorized $15 million in FY 1973, $25 million in FY 1974 and $30 million in FY 1975.

End-Stage Renal Disease. H.R. 8395 included authorizations of funds to treat and rehabilitate individuals suffering from end-stage renal disease (kidney failure). $25 million was provided for this purpose in FY 1973 and the two succeeding fiscal years.

Rehabilitation Services for Older Blind Individuals. Funds would have been authorized to intensify efforts to assist

older blind individuals ($10 million in FY 1973; $20 million in FY 1974 and $30 million in FY 1975).

Advisory Councils. A twenty member National Advisory Council on Rehabilitation of Handicapped Individuals would have been created within HEW to advise and assist the Secretary and the RSA Commissioner. At least eight of the members were required to be handicapped individuals. $2 million was also authorized to permit the establishment of state advisory councils.

National Commission on Transportation and Housing. A fifteen member National Commission on Transportation and Housing for Handicapped Individuals would have been created within HEW. The Commission was directed to file separate reports on the housing and transportation needs of handicapped people by January 1, 1975.

Architectural and Transportation Barriers Compliance Board. An interagency board would have been created to assure compliance with the Architectural Barriers Act of 1968 and study additional ways of eliminating architectural and transportation barriers in public facilities.

LABOR-HEW APPROPRIATIONS (H.R. 15417 and H.R. 16654)

On two separate occasions during 1972 President Nixon vetoed Labor-HEW Appropriations bills. As of the close of the session, the two departments were still operating on a continuing resolution pending solution of the impasse between the executive and legislative branches over the proper level of funding for agency programs.

In rejecting the initial version of the Labor-HEW bill (H.R. 15417) President Nixon called it "a perfect example of. . . reckless Federal spending." He noted that the bill exceed his budget recommendations by $1.8 billion and criticized Congress for failing to include a ceiling on social services expenditures. As passed by Congress, the bill authorized spending totaling $30.5 billion.

Among the programs which were in line for sizable increases under H.R. 15417 were two state grant-in-aid programs affecting the handicapped: developmental disabilities ($10.7 million increase) and education of handicapped children ($37.5 million increase).

Efforts to override the President's veto failed in the House and, therefore, Congress was forced to come up with a revised appropriations bill for the two departments. Rather than renegotiating money figures for the hundreds of line items in the budget, the Senate and House Appropriations Committees decided to stick with the appropriation figures in the original

bill but give the President authority to make selective reductions in the amounts provided. Thus, language was incorporated in the revised measure (H.R. 16654) which permitted the President to shave $1.2 billion from authorized spending provided no more than 13 percent was taken from any one appropriation item.

Despite this partial concession on the part of Congress, President Nixon "pocket" vetoed the bill on October 30 calling it "a textbook example of the seeming inability or unwillingness of Congress to follow a prudent and responsible spending policy." In anticipation of the President's action, Congress did include authority to continue spending on Labor and HEW programs in the foreign assistance money bill which was signed into law on October 30 (P.L. 92-571). Under the terms of this interim spending authority, existing programs may continue to obligate funds through February 28, 1973 at either the FY 1972 funding level or the level requested in the President's FY 1973 budget. Further attempts to pass a money bill will be high on the legislative calendar of the 93rd Congress (see discussion of future prospects of this legislation on p. 44).

OLDER AMERICANS ACT AMENDMENTS (H.R. 15657)

Another bill "pocket" vetoed by President Nixon was the Older Americans Act Amendments. This legislation would have extended and expanded existing programs through fiscal year 1975, authorized special demonstration projects in transportation, housing, employment and education of the elderly and created a National Advisory Council and a National Information and Resource Center for the Aged. In addition, H.R. 15657 would have authorized the use of foster grandparents in community-based programs as well as institutional settings.

In vetoing the measure, President Nixon criticized the addition of several "narrow, categorical service programs. . ." and the inclusion of excessive authorization levels.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971 (S. 2007)

On December 9, 1971, President Nixon vetoed the Economic Opportunity Amendments of 1971 which contained authority for a massive new child development program. In announcing his decision, the President said that the worthy intentions of the child care amendments were "overshadowed by the fiscal irresponsibility, administrative unworkability and family weakening implications of the system. . .". He also criticized the legislation for relegating the states to an "insignificant role."

The legislation, which was among the most highly publicized and controversial domestic bills considered by the 92nd Congress, contained authorization for a sweeping $2.1 billion,

two year child development program. The program was designed to replace Headstart with a broad new authority to fund comprehensive services to enhance the physical, mental, social and cognitive development of children.

Local governments were granted priority to serve as "prime sponsors" of child development programs with the states relegated largely to the provision of technical assistance and consultation except in those areas where no local jurisdiction was willing or able to serve as a prime sponsor. Services were to be provided to children from families of all income levels; however, children from economically needy families would have been served free of charge while other children would have received services on a sliding, fee-for-services basis depending on family income.

From the standpoint of the handicapped, the most important feature of the legislation was a provision requiring that ten percent of program funds be earmarked for handicapped children. In explaining the purpose of earmarking funds for handicapped children, the Senate Committee on Labor and Public Welfare pointed out that a child born into poverty ". . .with the additional problems of deafness, blindness, orthopedic handicaps, or other disabling conditions. . .[faces] an almost intolerable burden. . .[which], in a sense, renders the child and his family doubly handicapped" (Senate Report No. 92-331, pp. 46-7. See also information on 1972 OEO Amendments, p. 17 and the 1972 Child Development Bill, p. 32).

IV. BILLS CONSIDERED BUT NOT ENACTED BY THE 92ND CONGRESS

During the 92nd Congress, a total of 20,458 public bills were introduced in the House and 4,896 in the Senate. A considerable number of these measures had some implications for the mentally retarded and other handicapped persons. Obviously, it would be a monumental task to review all of these bills. Therefore, the following represents only a brief overview of some of the more important legislation introduced and its status as of the close of the past session. Unless otherwise indicated, the bills mentioned were referred to the appropriate Congressional committee and no further action was taken on them during the session.

EXTENSION OF THE DEVELOPMENTAL DISABILITIES ACT

Statutory authority covering programs under the Developmental Disabilities Act (P.L. 91-517) expires on June 30, 1973. Shortly before the end of the last session of Congress, Senator Edward Kennedy (D-Mass.) introduced a bill (S. 4048) calling for a simple three year extension of the legislation without specifying authorization levels. He has indicated his intention of reintroducing the bill early in the current session.

BILL OF RIGHTS FOR THE MENTALLY RETARDED

On June 28, 1972, Senator Jacob K. Javits (R-N.Y.) introduced a bill (S. 3759) designed to thrust the federal government into a leadership role in improving residential services for retarded children and adults. In commenting on his reasons for submitting the measure, Javits pointed to the "tragic conditions at Willowbrook State School" and similar institutions across the country and called for a federal-state partnership to eliminate present institutional abuses and establish an integrated and "coordinated community-based system of care to meet the long-neglected needs of the mentally retarded."

In essence, the Javits bill would have established strict federal standards for the operation of residential facilities. These standards, which took up all but 13 pages of the 222-page measure, were drawn practically verbatim from the Standards for Residential Facilities for the Mentally Retarded issued by the Joint Commission on the Accreditation of Hospitals in late 1971. Public facilities would have been required to meet the standards after a reasonable period of

time or face the loss of federal aid. At the end of five years, all federal assistance would have been withdrawn from a facility which failed to comply (except that this time frame could be extended if appropriations did not meet authorization levels in any year).

S. 3759 also would have authorized the following funds to help states upgrade residential and community services for the retarded: (1) $15 million annually over a three year period for conducting surveys, analyzing costs, and developing plans for complying with established standards; (2) $15 million annually over a three year period for demonstration grants to improve programs in existing residential facilities (not to exceed $300,000 per institution); (3) "such sums as may be necessary" to assist public and non-profit agencies to develop, improve, and expand community alternatives to institutional care; and (4) "such sums as may be necessary" to aid states in bringing public residential facilities up to minimum standards (priority to facilities with the greatest need).

Provision was also made in the bill for a 15-member National Advisory Council on Standards for Residential Facilities for the Mentally Retarded which would have been responsible for recommending revisions in the statutory standards. This group was to be composed of representatives of citizen and professional organizations with a majority of the members representing consumers of service.

A companion measure to the Javits bill (H.R. 15733) was introduced in the House by Representative John Murphy (D-N.Y.). Over fifty congressmen added their names as co-sponsors of the legislation or introduced their own identical bills. Senator Javits has announced plans to reintroduce his bill early in the 93rd Congress and it is expected to be considered when Developmental Disabilities legislation comes up for extension.

FINANCING EDUCATIONAL SERVICES FOR HANDICAPPED CHILDREN

Senator Harrison Williams (D-N.J.), along with 20 Senator co-sponsors, introduced a bill (S. 3614) which called for sweeping revisions in federal financing for special education services to handicapped children. Similar legislation was introduced in the House by Congressman John Brademas (D-Ind.).

S. 3614 would have authorized the federal government to reimburse states for 75 percent of the excess costs of educating handicapped youngsters. In order to qualify for such aid, a state would have had to submit an acceptable plan providing for: (1) identification of all handicapped children in the state; (2) complete and appropriate services to such children by 1976 (including institutionalized youngsters); (3) evaluation of state procedures for institutionalizing handicapped

children; (4) an annual audit of the effectiveness of educational programs in meeting the needs of the handicapped; and (5) maintenance of state and local effort in financing special education programs. The state education agency would have been responsible for administering the program.

The U.S. Commissioner of Education would have been directed to conduct a study of educational programs for institutionalized children and report to Congress by June 30, 1973. The purpose of this study would be to uncover ways of accomplishing "deinstitutionalization of handicapped children where appropriate. . .[and improving] programs for handicapped children who will require institutionalization."

No action was taken on S. 3614 by the 92nd Congress but both Senator Williams and Representative Brademas reintroduced their bills in the opening days of the 93rd Congress. With all titles of the Elementary and Secondary Education Act - including Title VI, the Education of the Handicapped Act - up for extension this year, the Williams bill is expected to receive more serious attention in the current session.

COMPREHENSIVE HEADSTART, CHILD DEVELOPMENT, AND FAMILY SERVICES ACT

During 1972, the Senate enacted a scaled-down version of the child development legislation which was vetoed by President Nixon as part of the 1971 OEO Amendments (see p. 28 for a discussion of this earlier legislation). A number of modifications were made in the bill (S. 3617) before final passage in an effort to meet the objections raised by the President in his veto message.

S. 3617 would have authorized a three year, $2.95 billion program of grants to the states and local communities to support pre-school education programs for needy children. One key feature of the 1971 legislation which was retained in S. 3617 was the requirement that at least ten percent of grant funds be used to serve handicapped children.

The measure died at the end of the session, however, when the House failed to act on it.

NATIONAL HEALTH INSURANCE

During the past three sessions of Congress, any number of bills have been introduced which call for increased federal aid in the delivery of quality health care to all Americans. Proposals range from the establishment of a comprehensive national health insurance system for all citizens (Kennedy - S. 3 and Griffiths - H.R. 22) to an AMA-sponsored bill which would leave the present system essentially unchanged except to offer taxpayers greater deductions for medical care expenses (S. 987 - Hansen). The Administration proposes to extend health care

assistance to certain middle income (non-welfare) families through existing third party agents (Blue Cross, etc.) while encouraging the increased use of group practices and preventive care (S. 1623 - Bennett). In addition, the Administration's bill would require employers to provide basic health insurance coverage for their employees - including coverage against the catastrophic costs of major illnesses and accidents (up to a maximum of $50,000).

Several Congressmen have criticized the failure of all the major health insurance plans to provide adequate coverage for individuals suffering from chronic disabilities. A few bills to remedy this situation were submitted late last year including Representative Harrington's (D-Mass.) so-called Chronicare bill (H.R. 17026) and Senator Humphrey's Chronicare Demonstration bill (S. 4084).

SPECIAL REVENUE SHARING

As part of its broad strategy of decentralizing program responsibility to state and local governments, the Nixon Administration proposed a series of six special revenue sharing plans early in 1971. Among these proposals, was a plan for consolidating a total of 34 existing federal education programs into five broad categories - one of which would be special education - and to permit the states greater flexibility in using these funds (H.R. 7796 - Quie; S. 1669 - Stafford). Six percent of the total funds would be earmarked for the handicapped; however, states would have authority to transfer up to thirty percent of such funds from one category to another.

A one-day hearing was held before the House Education and Labor Committee but neither the House nor the Senate took final action on the legislation. A similar bill is expected to be introduced, with Administration support, in the 93rd Congress.

ALLIED SERVICES

Last year, the Administration submitted to Congress its so-called Allied Services plan; however, no action was taken on the legislation.

The purpose of the Allied Services legislation (H.R. 15838; S. 3643) is to help coordinate the system for delivering a wide range of social services to clients in a more effective and efficient manner. Last year's plan would have: (1) permitted up to 20% of HEW program funds to be transferred between specified departmental activities; (2) waived some of the time-consuming federal program requirements; and (3) authorized limited funding to state and local jurisdictions for planning and administration. Among the programs which would

have been covered by the bill were: Developmental Disabilities grants to the states, Vocational Rehabilitation grants to the states and social services funding under Titles I, IV, X, XIV, and XVI of the Social Security Act.

The legislation is expected to be introduced in a modified form during the 93rd Congress.

REORGANIZATION OF THE EXECUTIVE BRANCH

In his 1971 State of the Union Message, President Nixon called for a sweeping reorganization of the executive branch of government. Later, four bills were introduced in Congress to implement the President's plan for reducing the present twelve cabinet departments to eight by consolidating the operation of eight existing departments into four new agencies: Human Resources, Community Development, National Resources and Economic Development. Under the President's plan, the Department of Human Resources would be made up of most of the present Department of Health, Education and Welfare, plus food programs from Agriculture, the college housing program from HUD, the Railroad Retirement Board, various programs from OEO and manpower training and employment programs from Labor (H.R. 6961 - Holifield; S. 1432 - Percy). For the past two sessions, Congress has moved very slowly on these proposals but hearings were beginning to be scheduled on a few of the reorganization measures by the close of the second session.

RIGHTS OF THE HANDICAPPED

A growing number of bills were submitted in the 92nd Congress to safeguard the rights of handicapped persons. Perhaps the most notable legislation was a bill introduced by Senator Humphrey (S. 3044) and Representative Vanik (H.R. 12154) which would have amended the Civil Rights Act to prohibit discrimination against persons with physical or mental handicaps in federally assisted programs. A related measure (S. 3458 - Percy) to make discrimination against the physically and mentally handicapped an unlawful employment practice was also introduced. Late in the session a rider, similar in intent to the Vanik-Humphrey bill, was added to the Rehabilitation Amendments (see p. 25).

Other rights bills introduced in the session included: (1) a bill to protect the constitutional rights of mentally incompetent persons committed to institutions (H.R. 9185 - Hall); (2) a bill to make discrimination against the physically handicapped in employment unlawful (H.R. 10962 - Hicks); and (3) a resolution seeking Congressional backing for a statement of the general and special rights of the mentally retarded (H. Con. Res. 406 - Gude).

While none of these measures ultimately were enacted, they did demonstrate a growing awareness in Congress of the need to

protect the civil and constitutional rights of handicapped citizens.

TAX DEDUCTIONS FOR THE HANDICAPPED

As has been the pattern for the past fifteen to twenty years, a considerable number of bills were introduced in Congress to grant additional tax deductions to the handicapped or a taxpayer supporting a handicapped child or adult. Among the proposals presented were: (1) a measure to give a tax break to handicapped workers who incur unusual transportation costs traveling to and from their jobs (H.R. 424 - Mills; S. 809 - Javits); (2) a bill to allow parents who support a physically or mentally handicapped person to declare them as a dependent even if they earn in excess of $650 annually (H.R. 890 - Matsunga); and (3) a bill to allow tax deductions for expenses incurred in providing education and training for mentally retarded or physically handicapped children (H.R. 8619 - Vanik).

With the growing concern in Congress about tax loopholes, little attention was given to these and similar bills.

MILITARY MEDICAL BENEFITS

In 1966, Congress amended the Military Medical Benefits Act to authorize a program of specialized assistance to physically and mentally handicapped dependents of servicemen on active duty. Congressman Pepper (D-Fla.) last year introduced legislation (H.R. 12223) which would have extended similar benefits to the dependents of retired servicemen with thirty or more years of credited service but the measure was not acted on by the House Armed Services Committee.

FAIR LABOR STANDARDS AMENDMENTS

Last year, both the House and the Senate enacted bills calling for an increase in the minimum wage, extension of wage coverage to new groups, and other amendments to the Fair Labor Standards Act. However, the two bodies were unable to agree on a compromise measure in conference and the bills died with the end of the session. Since passage of a minimum wage bill is organized labor's top legislative priority, further efforts to enact this legislation in the current session are inevitable.

Last year's Senate-passed bill contained language which would have extended minimum wage coverage to sheltered workshops and rehabilitation facilities by eliminating present exclusionary language in the Act.

LEAD-BASED PAINT

In 1970, Congress passed the Lead-based Paint Poisoning Prevention Act (P.L. 91-695) to help cities and communities detect,

treat and eliminate this cause of death and physical and mental impairments among young children. The present legislation expired on June 30, 1972. The Senate passed extension legislation last June (S. 3080) but the bill died in the House.

EDUCATION OF THE SEVERELY RETARDED

Congressman John Brademas (D-Ind.) and Edward Koch (D-N.Y.) last year introduced a bill (H.R. 15034) to add a new section to the Education of the Handicapped Act authorizing project grants to assist in providing comprehensive education programs for severely retarded children.

WHITE HOUSE CONFERENCE ON THE HANDICAPPED

Senator Williams sponsored a resolution (S.J. Res. 202) which would have expressed Congressional support for a White House Conference on the Handicapped called by the President. The Senate passed the measure in August, 1972 but the House failed to act on it.

TUTORING HOMEBOUND HANDICAPPED CHILDREN

Representative Badillo and Senator Hartke introduced legislation to amend the Education of the Handicapped Act to provide tutorial assistance to homebound handicapped children through the use of college students (H.R. 11131; S. 2898).

HOUSING AND URBAN DEVELOPMENT ACT OF 1972

As reported out by the House Banking and Currency Committee, this legislation (H.R. 16704) contained an amendment which would have broadened the definition of "handicapped persons" in the existing Housing Act to include persons with both physical and mental disabilities. Currently, special housing benefits for the handicapped are limited to the physically disabled and this restriction has, on occasions, limited the types of projects for the mentally retarded and mentally ill that HUD has been able to fund.

Because of other highly controversial features of H.R. 16704, the House Rules Committee voted to defer action on the legislation. A simple one year extension of expiring programs was eventually enacted by Congress pending reconsideration of major amendments during the first session of the 93rd Congress.

CANCELLATION OF STUDENT LOANS

Representative Biaggi (D-N.Y.) introduced a bill (H.R. 14324) to amend the student loan provisions of the National Defense Education Act of 1958 to provide for cancellation of student loans for service in mental hospitals and schools for the handicapped (referred to House Education and Labor Committee).

AUTISTIC CHILDREN

Senator Hollings (D-S.C.) introduced a bill (S. 3806) to provide for accelerated research and development in the care and treatment of autistic children. This measure provides for: (1) a comprehensive research program; (2) grants and loans to public and non-profit groups proposing to operate a residential facility with educational programs for autistic children; and (3) an additional $750 exemption for each autistic child of the taxpayer. A companion measure (H.R. 16540) was introduced in the House by Representative Hechler (R-Mass.).

REDUCED AIR FARES FOR HANDICAPPED PERSONS

Senator Humphrey (D-Minn.) sponsored an amendment to the anti-hijacking bill (S. 2280) which provided for reduced air fares on a reserved seat basis for handicapped persons and their attendants, if required. Although the bill passed the Senate with the Humphrey amendment attached, the House deleted the reduced air fare provision. In the conference committee, the representatives from both houses of Congress agreed that the Humphrey amendment was non-germane and struck it from the bill.

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

On July 25, 1972, the Senate passed a bill (S. 5 - Mondale) which would have established full social opportunity as a national goal; special assistance to designated groups in society, including the mentally retarded, was also embraced in the proposal. A three-member Presidential Council of Social Advisors, similar to the present Council of Economic Advisors, would have been established to analyze various social, health and education programs and to make recommendations to the President. The House did not take any action on this measure. The bill has been re-introduced in the 93rd Congress by Senators Mondale and Javits (S. 5).

V. THE 93RD CONGRESS: A LOOK AHEAD

Predicting the future is always a risky proposition at best - especially when dealing with a subject as inherently volatile as legislation. Nonetheless, some reasonable assumptions can be drawn from recent developments in Congress which can serve as guideposts to what the future might hold. With this thought in mind, let us look at some of the general and specialized domestic legislation we might expect to be considered by the 93rd Congress.

GENERAL

Tax Reform

Within the past two years there has been a growing awareness, both in Congress and the Administration, of the built-in inequities in our present federal tax structure. The 1972 platforms of both major political parties promised to support tax reform. Representative Wilbur Mills, powerful Chairman of the House Ways and Means Committee, has announced that his committee will hold hearings on this subject early in 1973. In preparation for these hearings, he has introduced legislation which would, in effect, wipe out all existing income tax loopholes over a five year period unless Congress took positive action to restore them on an individual basis. The Nixon Administration has also promised to submit to Congress its own proposals for revising the tax structure.

Tax reform is an issue which most Congressmen are for - in theory at least. However, when debate begins on eliminating or modifying existing tax breaks for various segments of society (oil companies, businessmen, homeowners, families with children, etc.) sharp differences of opinion can be expected.

It now appears that tax reform shapes up as one of the major battlegrounds of the 93rd Congress. The outcome of this debate - both in terms of the magnitude of future federal resources and the way in which it is to be collected - could have a profound effect on future patterns of funding domestic spending programs.

National Health Insurance

As indicated above, a wide variety of national health insurance proposals have been introduced in Congress over the past three

years. Hearings have been held on the subject by the House Ways and Means Committee, the Senate Finance Committee and the Senate Labor and Public Welfare Committee.

At this point, both the Nixon Administration and Democratic leaders in Congress agree that some form of national health insurance is needed to assure all Americans equal access to quality medical services. They also agree that the experience with the medicare and medicaid programs clearly indicate that any system for paying for health and medical services must be supplemented by a system for assuring that adequate resources are available to deliver such services. In this regard, both Congress and the Administration see the so-called Health Maintenance Organization, with its stress on preventive medicine and group practice, as the most efficient and least costly service delivery alternative. However, the Nixon Administration and Democratic leaders hold widely divergent views on how a health insurance scheme and HMO's should be financed and administered.

Congressman Wilbur Mills recently announced that he and Senator Edward Kennedy (D-Mass.), sponsor of the most comprehensive and costly health insurance proposal, had reached agreement on several basic principles of national health insurance but were not together on how such an insurance program should be financed and who should administer it. He went on to predict that the House would complete action on health insurance legislation by late 1973 but it might be the end of 1974 before a bill cleared the Senate.

As indicated earlier, one glaring defect in most national health insurance plans is their failure to provide adequate coverage for chronic conditions of a health related origin. Certainly any such coverage would sharply expand health insurance coverage for substantially handicapped clients. In any event, the eventual enactment of any comprehensive health insurance program, which now appears likely, would have extensive implications for the handicapped both in primary prevention of disabling conditions and the treatment of existing health problems among handicapped children and adults.

Allied Services

Congress has largely ignored the Administration's Allied Services legislation since it was first introduced last May (see p. 33). However, the Administration has promised to submit a revised version of the bill early next year. Given the forces that are likely to line up against such an integrated services bill and the natural preference of Congressmen to deal with specific program interests, the legislation might be pigeonholed once again in the 93rd Congress.

On the other hand, more and more program administrators (including some who operate programs for the handicapped and other

"categorical" interests groups) are beginning to question the wisdom of continued fragmentation in the delivery of human services. In addition, governors and other generalist administrators (mayors, county executives, ect.) are demanding a stronger voice in rationalizing the often chaotic system for delivery of such services. Thus, the recognition of the need for service integration coexists with a deeply embedded and well-grounded fear among categorical interests groups that the recent advances achieved on behalf of such groups would be lost in any integrated service approach.

In summary, the prospects for action on the Allied Services legislation during the next session of Congress seems mixed. Should such legislation be enacted, however, it could have considerable impact on our current system for delivering services to the handicapped - depending on the form it takes and the levels of authorized funding.

Reorganization of the Executive Branch of Federal Government

As indicated earlier, President Nixon asked Congress to approve a major reorganization of the executive branch of government in his 1971 State of the Union Message (see p. 34). Since the legislation was initially submitted in the spring of 1971, it has been confined largely to various committees of Congress and the Democratic leadership of the House and Senate have shown little interest in pushing it along the path towards enactment. Hearings have been held on a couple of the measures but no committee or floor action has been taken on any of the four bills introduced.

Prospects for action on the President's reorganization plan do not seem much brighter in the next session of Congress. However, in line with the President's goals, there are persistent rumors that the Administration intends to take administrative steps to reorganize several federal departments.*

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* Two early signs that the President has not abandoned his reorganization goal are already available. First, Mr. Roy Ash, who chaired the Presidential commission which initially recommended government reorganization, has been named to the key role of Director of the Office of Management and Budget. Second, the White House announced on January 5 that the Secretaries designate of HEW and HUD and the Secretary of Agriculture had been given the additional assignment of acting as counselors to the President in order to advise him on broad categories of domestic programs. For example, HEW Secretary Caspar Weinberger has been assigned the responsibility for overseeing all the federal government's human resource programs and Secretary of Agriculture Butz will advise the President on natural resource programs.

While most programs could not be shifted from one department to another without Congressional approval, the Administration could, for example, effect a major realignment of activities within a department such as HEW.

It is important to note that the Reorganization Act of 1949 expires on April 1, 1973. Under this plan, the President is granted authority to submit reorganization plans to Congress afterwhich Congress has sixty days to reject the plan or it automatically goes into effect. Some observers predict that legislation to extend the Act will form one of the early battlegrounds in the conflict over the relative powers of the legislative and executive branches.

Impounding Federal Funds

The practice of withholding funds appropriated by Congress dates back to the early days of the Republic. Congress has often chaffed at the thought of a President, in essence, overruling its Constitutional "power of the purse." But with growing frequency in the 20th Century, Presidents have felt it necessary to impound certain funds appropriated by Congress in order to maintain a well-balanced national economy.

The historical opposition of Congress to the practice of executive impoundment of funds flared up again during the 92nd Congress. Hearings were held by the Senate Committee on the Judiciary and a number of bills were introduced to eliminate or restrict the practice. At the end of the session, after the hotly contested debate over granting the President authority to hold FY 1973 spending to $250 billion (see discussion on p. 2), Congress did authorize the establishment of a temporary joint committee to recommend procedures for improving Congressional control of budgetary outlays. In addition, the Budget and Accounting Procedures Act of 1950 was amended to direct the President to submit reports to Congress and the Comptroller General on all impounded funds.

Further efforts to reassert the power of Congress to control government funds seems likely in the next session of Congress. The question, however, remains whether Congress, as a body, is prepared to take on the responsibilities inherent in such an expanded role and can speak with a sufficiently unified voice to reassume powers which have been slowly chipped away by the executive branch.

Special Revenue Sharing

It now appears that the Nixon Administration will propose one or more new special revenue sharing plans - in addition to the six which were introduced in 1971. One of these plans apparently will cover a number of federal health service programs including maternal and child health and crippled children's programs. Rumors also persist that there will be an

Administration-sponsored plan for a Social Services Revenue Sharing program which would return block grants to the states as a substitute for various existing "categorical" grant programs such as social services and rehabilitation.

Thus far, Congress has shown no great haste in acting on the President's revenue sharing plans and there is little reason to suspect that it will move any faster on these new ones. Nonetheless, the plans contain the seeds for a major realignment in federal-state relationships in the human services area and, therefore, should be watched very closely.

LEGISLATION RELATING DIRECTLY TO THE HANDICAPPED

Financing Educational Programs for Handicapped Children

The Elementary and Secondary Education Act expires on June 30, 1973. Among the programs authorized under the Act is the state grant-in-aid program for education of handicapped children (Title VI B, ESEA).

As indicated earlier (p. 31), Senator Harrison Williams (D-N.J.), Chairman of the Senate Labor and Public Welfare Committee, has introduced a bill which would reimburse states for 75 percent of the excess costs of educating handicapped youngsters. This bill seems certain to receive serious consideration in both Houses of Congress when ESEA extension legislation is considered next year.

It may get caught up, however, in the broader debate over how public schools should be financed and, more specifically, how the federal government should channel aid to local school districts. This debate grows out of a general dissatisfaction with the results of the Title I, ESEA grant program which was designed to improve educational opportunities for disadvantaged children. Strong opposition to the large price tag attached to the Williams bill undoubtedly will draw fire from cost-conscious Administration and fiscal conservatives in Congress.

Developmental Disabilities

Another law which expires on June 30, 1973, is the Developmental Disabilities Services and Facilities Construction Act of 1970 (P.L. 91-517). As indicated earlier, Senator Kennedy has introduced a bill (S. 427) calling for a simple extension of the Act. In addition, work is reportedly underway within HEW to prepare a draft Administration bill for submittal to Congress early next year.

Among the issues which are likely to be raised in debate over extension of the legislation are: (1) the need to revise the definition of the term "developmental disability" [N.B. Senators Cranston (D-Calif.) and Tunney (D-Calif.) are already on

record as favoring the inclusion of other disability groups]; (2) authorization for a consolidated project grant authority; and (3) addition of an authority to stimulate the placement of mentally retarded institutional residents into more home-like, community-based settings and/or an effort to upgrade care and services in existing public institutions for the mentally retarded (see below).

Improvements in Residential Services for the Mentally Retarded

Senator Jacob Javits (R-N.Y.) and other members of Congress introduced bills last spring designed to thrust the federal government into a leadership role in improving residential services for retarded children and adults (see p. 30). While warmly backing the Senator's initiative and recognizing the need for positive federal intervention, several organizations in the field have expressed reservations about the Javits proposal. Among the problems they point out are: (1) the incorporation of residential standards in statutory law would tend to make it more difficult to adapt standards to changing program needs; (2) the flexibility and independence of a voluntary accreditation process would be sacrificed by "federalizing" the standard setting function; (3) no mechanism is provided for assessing compliance with standards; and (4) the functions of the proposed National Advisory Council duplicate and overlap with the existing DDSA National Advisory Council.

In all likelihood, the Javits bill will be considered during committee hearings on extension of the Developmental Disabilities legislation. It is difficult to predict at this time what, if any, parts of the Javits bill will be retained in the final legislation. However, it does seem likely that some type of new federal initiative in the area of residential services for the retarded will result.

Rehabilitation

As indicated in Part III of this report, President Nixon "pocket" vetoed the Rehabilitation Amendments of 1972. Leaders in both Houses of Congress expressed disappointment and chagrin on learning of the President's action and promised to give early attention to passage of a new rehabilitation bill in the 93rd Congress. Reportedly, the Administration is preparing a revised bill for submission to Congress. However, it now looks as if Congress will reintroduce and pass a bill not substantially different from the measure which the President vetoed. If the bill is vetoed the second time, an effort will be made to muster sufficient votes to override the veto.

Labor-HEW Appropriations

The FY 1973 Labor-HEW bill had the rare but dubious distinction of being one of the few bills ever vetoed twice in the same session. When Congress comes back into session, it will have to either enact a new version of the Labor-HEW bill or otherwise extend the funding authority for the two departments through the remainder of the year.

President Nixon has indicated publicly that he feels the budgets of several domestic agencies are "bloated." Given the President's views and the present attitudes of Congressional leaders, many observers do not expect Congress to act on a final appropriations bill before the end of the fiscal year. If this occurs, increased spending authority for several programs affecting the handicapped (Education of the Handicapped, Developmental Disabilities, etc.) would be lost and the funding base for determining the FY 1974 budget would slip back to the FY 1972 level.

Rights of the Handicapped

Early indications are that the Administration will not oppose the inclusion of language forbidding discrimination against the handicapped in the new rehabilitation amendments. Therefore, it seems almost certain that these provisions will be included in whatever form the final bill takes.

In addition, we can expect Representative Vanik and Senator Humphrey to push their bills to safeguard the civil rights of the handicapped. It would not be surprising, either, if further rights measures were introduced in the next session of Congress given the high publicity which recent federal court decisions affecting the handicapped have been receiving.

Comprehensive Child Development Legislation

In 1971, Congress enacted a sweeping new federal measure to support comprehensive services designed to enhance the physical, mental, social and cognitive development of children only to have the bill vetoed by President Nixon (see discussion on p. 28). A modified and somewhat scaled-down version of this legislation was passed by the Senate in 1972 but died in the House. Both the 1971 and 1972 versions of the bill would have required that at least ten percent of grant funds be used to serve handicapped children.

Further attempts to enact major child development legislation seem certain during the upcoming session of Congress. Support for continued inclusion of an earmarked portion of the funds for services to handicapped youngsters appears strong.

APPENDIX A

OBLIGATIONS AND APPROPRIATIONS FOR SELECTED PROGRAMS
AFFECTING THE MENTALLY RETARDED
Federal Budget, FY 1972-73
(in thousands of dollars)

AGENCY/PROGRAM	FY 72 Esti.	FY 73 Pres.Budg.	Vetoed H.R.16654[1]
Soc. & Rehab Service			
Div. of Dev. Disabil.			
Service Proj. Grants			
HIP/HIST	$ 6,500	$ 4,500	$ 4,500
Rehab Proj. Grants - 4a(1)	6,935	8,933	8,933
Research	65	67	67
Staffing Grants	10,075	5,000	5,000
DDSA Formula Grants	21,715	21,715	32,500
UAF Dem. & Trng. Grants	4,250	4,250	9,250
Total - DD Div.	$49,540[2]	$44,465	$60,250
Other			
Basic State Rehab Grants[3]	$74,100	$81,100	$81,100
Health Serv. & M.H. Admin.			
Maternal & Child Health Serv.			
MCH-CC Proj. Grants[4]	$ 9,750	$ 9,750	$ 9,750
UAF Training Grants	11,800	11,800	11,800
Office of Education			
BEH			
State Formula Grant	$ 37,500	$ 37,500	$ 65,000
Spec. Target Prog.			
Model Early Childhood	7,500	12,000	12,000
Reg. Resource Center	3,550	7,243	7,243
Mod. Cent. for Deaf-Blind	7,500	10,000	10,000
Specific Lrng. Disabil. Cen.	2,250	3,250	5,000
Total Spec. Target Prog.	$ 20,800	$ 32,493[5]	$ 34,243
Innovation & Development	11,255	9,916[5]	9,916
Technology & Communications	11,000	13,500	13,500
Spec. Ed. & Manpower	34,645	37,700	39,700
Planning & Evaluation	550	-0-[6]	-0-
Total - BEH	$115,750	$131,109	$162,359
Other			
Grants to State Sup. Schools for Handicapped Children	$ 56,381	$ 56,381[7]	$ 60,480
(Title I ESEA)[8]	(32,826)	(32,826)	(36,226)[9]

APPENDIX A (cont.)

AGENCY/PROGRAM	FY 72 Esti.	FY 73 Pres.Budg.	Vetoed H.R.16654
Nat'l Inst. of Health			
Nat'l Inst. on Neurological Disease & Stroke[10]	$ 7,936	$ 8,004	not available
Nat'l Inst. on Child Health & Human Develop.[11]			
Earmarked Funds for MR Res. Centers	$ 5,608	$ 6,108	not available
ACTION			
Foster Grandparent Prog.	$25,000	$25,000	$25,000

1. This bill authorized the President to make reductions in appropriations totalling $1.2 billion provided no more than 13 percent was cut from any one appropriation item (see pp. 27-28).
2. In order to facilitate comparisons, all FY 1972 figures reflect appropriations authority rather than estimated obligations.
3. These figures are estimates of the amounts obligated for rehabilitation of the mentally retarded under Section 2 of the Vocational Rehabilitation Act (roughly 13 to 13.5 percent of total state allotments).
4. Reflects only amounts earmarked for special mental retardation projects.
5. The decrease in FY 1973 reflects the transfer of basic research support to the National Institute of Education.
6. Funding authority was transferred to Education Renewal in FY 1973.
7. The President's budget recommends limiting appropriations to the FY 1972 spending level.
8. Figures in parentheses are estimated expenditures for mental retardation educational programs.
9. Estimate based on pro rata reductions in full entitlements by type of handicap.
10. This program includes funds for the collaborative perinatal research project.
11. This figure does not include a wide variety of mental retardation related research and research training supported by the National Institute of Child Health and Human Development.